

Notice of Allowability

Application No.

10/628,851

Examiner

Fred Prince

Applicant(s)

THOMAS, CHARLES W.

Art Unit

1724

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to March 1, 2004.
2. ☒ The allowed claim(s) is/are 1-17.
3. ☒ The drawings filed on 01 March 2004 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) ☐ All b) ☐ Some* c) ☐ None of the:
 1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

* Certified copies not received: _____.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
 6. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
 - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
 - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date _____.
 - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date _____.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☒ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08),
Paper No./Mail Date _____
4. ☐ Examiner's Comment Regarding Requirement for Deposit
of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☒ Interview Summary (PTO-413),
Paper No./Mail Date 0904.
7. ☒ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other _____.

EXAMINER'S AMENDMENT

1. An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Robert Veal on September 2, 2004.

The application has been amended as follows:

In claim 1, line 1, "as found in residential gardens or the like" has been deleted.

In claim 9, line 2, "said" has been deleted and --a-- inserted therefor.

2. The following is an examiner's statement of reasons for allowance:

Per claim 1, while it is known in the art to provide a decorative pond with a secondary pool separated from the pond by a pervious wall, a skimmer basin with the secondary pool, a debris guard within the skimmer basin, a cover over the major portion of the skimmer basin, and a pump to pump water from the basin back to the pond (see US Pat No 5,584,991 to Wittstock et al.), and it is known to fill a secondary pool with gravel (see US Pat No 5,993,649 to DeBusk et al.), and it known in the art to provide a perforated conduit along the bottom of a pool (see US Pat No 6,740,232 to Beaulieu), in the examiner's opinion, the prior art fails to teach or render obvious combining the known elements in the manner of the instant invention, wherein the pump moves water from the basin and the perforated conduit to a return path to the pond and the rock

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overlies the cover and perforated conduit. The instant invention provides the benefit of a perpetual system requiring minimal cleaning and replacement of filtration materials.

Per claim 10, while it is known in the art to provide an ornamental pond with a secondary pool adjacent the pond and in aqueous communication with the pond such that the water level is the same in the pond and the secondary pool, a skimmer basin, a pump in communication with the skimmer basin and having an intake from the bottom of the pool and an outlet discharging to the ornamental pond (see JP 11-197653), in the examiner's opinion, the prior art fails to teach or fairly suggest combining the known elements with natural media filling the secondary pool above the water level and surrounding the skimmer basin, wherein the skimmer basin has an inlet at the surface of the water therein. The instant invention provides the benefit of a perpetual system requiring minimal cleaning and replacement of filtration materials.


Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Fred Prince whose telephone number is (571) 272-1165. The examiner can normally be reached on Monday-Thursday, 6:30-4:00; alt. Fridays 6:30-3:00.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Duane Smith can be reached on (571) 272-1166. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).


Fred Prince
Primary Examiner
Art Unit 1724

fgp
9/2/04